

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

ELIZABETH VAN DUYNE, and THE	§	
STATE OF TEXAS,	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	CIVIL ACTION NO. 4:22-cv-00122-O
	§	
CENTERS FOR DISEASE CONTROL	§	
AND PREVENTION, ROCHELLE P.	§	
WALENSKY, in her official capacity as	§	
Director of the CDC, SHERRI A.	§	
BERGER, in her official capacity as	§	
Chief of Staff of the CDC, UNITED	§	
STATES DEPARTMENT OF HEALTH	§	
AND HUMAN SERVICES,	§	
XAVIER BECERRA, in his official	§	
capacity as Secretary of HHS, and	§	
UNITED STATES OF AMERICA.	§	
<i>Defendants.</i>	§	

PLAINTIFFS' NOTICE OF VOLUNTARY DISMISSAL

Plaintiffs, Elizabeth “Beth” Van Duyne and the State of Texas, pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, hereby dismiss all causes of action in the complaint (ECF No. 1) against Defendants, Centers for Disease Control and Prevention, *et. al.*, without prejudice. As of June 27, 2023, Defendants’ mandate requiring people wear masks while on commercial airlines, conveyances, and transportation hubs is no longer in effect. Given Plaintiffs now have the relief originally sought, and the constitutional rights of Texans are protected, further litigation in this case, with the current circumstances, is no longer necessary. Additionally, since Defendants have not served an answer or motion for summary

judgment in this case, a voluntary notice of dismissal is proper. *See Bechuck v. Home Depot U.S.A., Inc.*, 814 F.3d 287, 291 (5th Cir. 2016) (In terms of Rule 41(a)(1)(A)(i), “notice of dismissal is self-effectuating and terminates the case in and of itself; no order or other action of the district court is required” *quoting, In re Amerijet Int’l, Inc.*, 785 F.3d 967, 973 (5th Cir. 2015) (per curiam)).

Respectfully submitted.

JOHN SCOTT

Provisional Attorney General

BRENT WEBSTER

First Assistant Attorney General

GRANT DORFMAN

Deputy First Assistant Attorney General

JAMES LLOYD

Acting Deputy Attorney General for Civil
Litigation

KIMBERLY GDULA

Deputy Chief, General Litigation Division

RYAN KERCHER

Deputy Chief, General Litigation Division

/s/ Heather L. Dyer

HEATHER L. DYER

Attorney-in-charge

Assistant Attorney General

Texas State Bar No. 24123044

Heather.dyer@oag.texas.gov

COUNSEL FOR THE STATE OF TEXAS

/s/Matthew Miller

ROBERT HENNEKE

Texas Bar No. 24046058

rhenneke@texaspolicy.com

MATTHEW MILLER
Texas Bar No. 24046444
mmiller@texaspolicy.com
NATE CURTISI
Arizona Bar No. 033342
ncurtisi@texaspolicy.com
TEXAS PUBLIC POLICY FOUNDATION
901 Congress Avenue
Austin, Texas 78701
Telephone: (512) 472-2700
Facsimile: (512) 472-2728

**COUNSEL FOR ELIZABETH VAN
DUYNE**

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document and all attachments were filed via CM/ECF on June 27, 2023, causing electronic service on all counsel of record.

/s/ Heather L. Dyer
HEATHER L. DYER
Assistant Attorney General